STATE OF NEW JERSEY

department of insurance

1984
annual report

The 1984 Annual Report
Of the New Jersey Department of Insurance
Is Submitted to the Governor
And Members of the New Jersey Legislature

We are making great strides to improve the quality of the Department of Insurance by upgrading the staff and support services. By undertaking a computer needs analysis; by streamlining the organization of the department and by improving the quality of regulation and on-the-job training, we are better able to fulfill our mission as the watchdog of the insurance and real estate industries. This is the first step on the road to excellence. Our goal is to become the best insurance department in the country.

Hazel Frank Gluck
Commissioner

Joseph F. Murphy,
Commissioner,
February 10, 1982-April 13, 1984

Kenneth D. Merin,
Commissioner,
April 14, 1984-January 10, 1985

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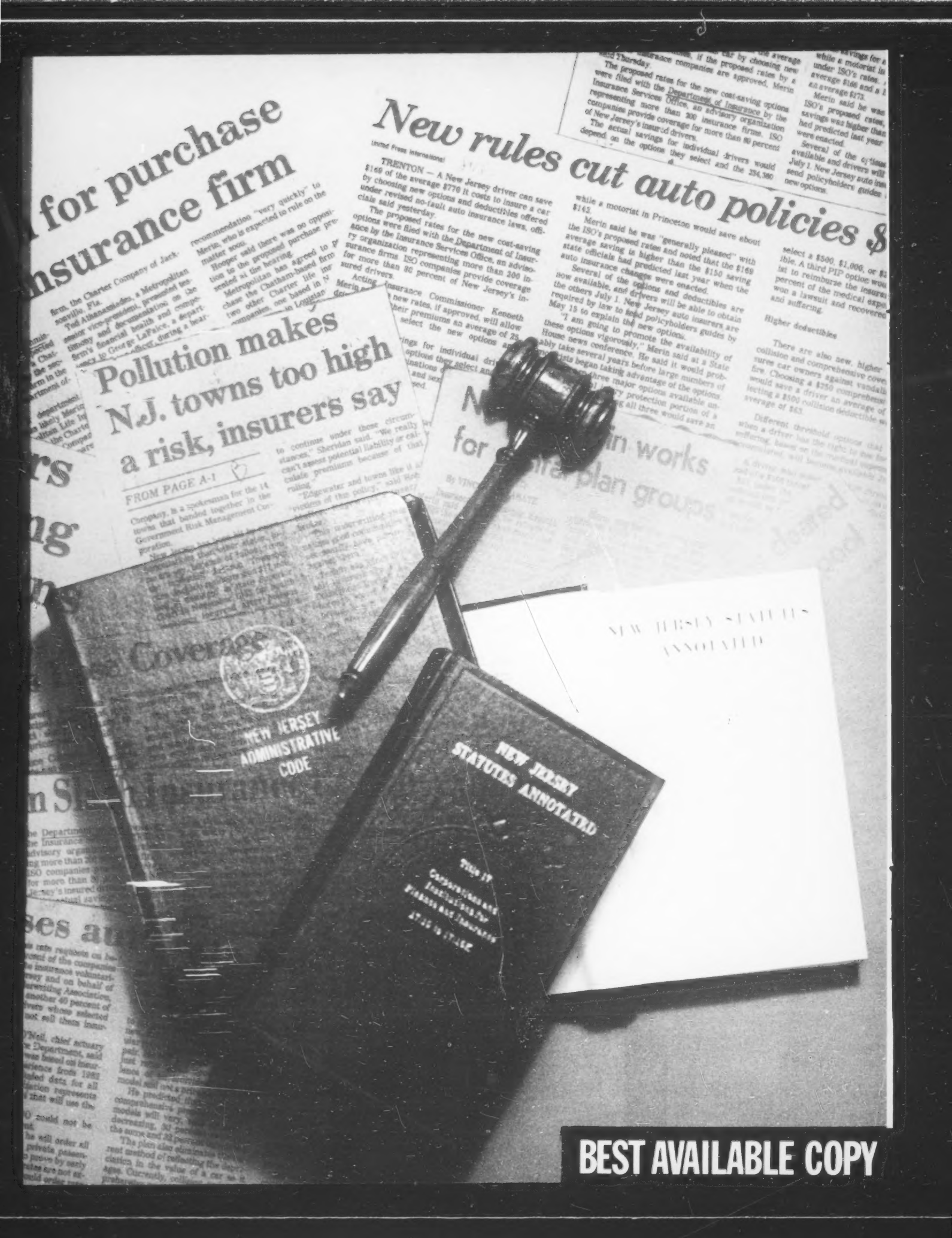
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NEW JERSEY
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STATUTES ANNOTATED
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The year was one of substantial change, indeed, of upheaval, in the Department of Insurance. Under the aegis of Kenneth D. Merin, deputy chief counsel to Governor Thomas H. Kean, who was named acting commissioner on April 14 and commissioner on September 20, the department was steered on a course of modernization. Computers were introduced to replace slow, painstaking manual operations. The internal organization was restructured to make use of streamlined management techniques and, in the words of Commissioner Merin, to enable a "19th century operation to meet head-on the challenge of regulating two multi-billion dollar, 20th Century operations: insurance and real estate."

The tone of the commissioner's administration of the department was set in his statement to the Joint Appropriations Committee of the Legislature in which he said that the "department has been underfunded, understaffed and underequipped year after year."

"At the same time the department has existed in a time warp," he told the committee, "the insurance industry has evolved into one of the most complex segments of the financial services industry, with the giants of insurance, banking, securities and other financial services banding together in conglomerates and holding companies.

". . . While the increasingly integrated companies we regulate are supported by sophisticated computer systems and personnel more qualified than ours, we work with outmoded tools like manual typewriters and pocket calculators in a converted department store on East State Street in Trenton.

"We, the supposed watchdogs of the insurance industry, are outmanned and outgunned just at the time when we should be closely monitoring information traditionally outside our scope of authority and attention."

Armed with an analysis of the department's operations made by the state's Office of Management and Budget, the commissioner re-aligned the table of organization to establish clear lines of authority and accountability and brought in additional personnel at senior management levels.

The organizational changes were accompanied by physical changes that created a more pleasant work environment. Cartons of ancient records that lined the halls and offices, giving the department the look of an ill-kept warehouse, were removed; walls were painted in bright tones; and offices were re-designed.

Word processors, which the department previously had only limited use of, were purchased to the unbounded delight of the typing staff; computers, heretofore virtually alien machines, began flashing data on terminal screens as the process of computerization began.

While the organizational and physical changes were ongoing, the department faced up to the task of meeting head-on the challenges of day-to-day regulation.

One of the major tasks facing the department in 1984 was implementation of the New Jersey Automobile Freedom of Choice and Cost Containment Act of 1984, which became fully effective on July 1. To inform the public of the complex changes taking place, the commissioner created a Division of Public Affairs with the initial goal of bringing to the public clear-cut and understandable explanations of the options available.

Full-page advertisements explaining the changes were published in the state's major newspapers; a 16-page booklet was prepared and distributed, and department personnel were assigned as speakers to various organizations across the state. A communications unit was set up within the Division of Public Affairs to respond quickly to correspondence from the public, which had inundated the department, most of the letters

brimming with anger and frustration over New Jersey's high auto insurance rates.

The commissioner himself and the Division of Public Affairs carried the message across the state that, while the opportunity now existed to reduce auto insurance costs, these costs would always remain high because of New Jersey's position as the state with the highest population density and with a high traffic density. The goal remains, however, to end New Jersey's unenviable status as the state with the highest average auto insurance rates.

The commissioner held the line on auto insurance rates, rejecting a request by the Insurance Services Office for a 9.9 per cent increase. The ISO is a major rating organization whose rates are used by companies that write about 80 per cent of the private passenger auto insurance business in the state.

To bring the department up to date in the promulgation of regulations and to enhance its position in legislative matters, the commissioner created the Division of Legislative and Regulatory Affairs. Augmented by personnel on loan from the Office of Administrative Law, the division began the task of drawing up a regulation for every law where needed to provide proper standards and procedures for the regulated companies. Initially, 114 laws in need of implementing regulations were identified. By year's end 35 regulations had been proposed and 18 adopted.

Reaching out to the private sector for expert help, the commissioner created four working groups to advise on these important areas: banks and insurance, agent and broker concerns, dental plan organizations, and malpractice insurance.

The Task Force on Banks and Insurance, composed of industry and agent representatives, is studying the arguments for and against the expansion of banks into insurance areas.

The Agent and Broker Review Board, composed of nine agents and brokers, advises the commissioner on such matters affecting producers as disciplinary procedures for infractions of the laws and regulations, educational qualifications, continuing education programs and other germane areas.

The Dental Plan Organization Board assists the Insurance Department in regulating DPOs, which furnish dental care on a group basis, generally through employer-employee contracts. It includes a representative of the State Board of Dentistry, two dentists, the State Police Superintendent, and department personnel.

The Task Force on Medical Malpractice Insurance is charged with recommending measures to reduce the incidence and cost of medical malpractice. Its first assignment is to propose an equitable method of funding a projected $42.1 million deficit in the New Jersey Medical Malpractice Reinsurance Association, the mechanism, since deactivated, that helped to stabilize the medical malpractice market in New Jersey between 1976 and 1982.

Much work remains to be done if the department is to become a 20th Century operation before the 21st is here; but the seeds have been planted for growth and development.

AVAILABILITY AND AFFORDABILITY

While the new laws kept auto insurance readily available to all needing it and held out the promise of lowered rates, availability and affordability of specialty lines of insurance were thrown into doubt at year's end.

The markets for municipal liability insurance, coverage for the removal of asbestos from public buildings, particularly schools, and liquor law liability suddenly constricted.

The insurance companies, apparently fearful of adverse court decisions and potentially huge judgments, either stopped writing these coverages or renewed with large premium increases and policy exclusions.

Addressing the problem of municipal liability insurance, the department published on December 3 a regulation implementing a law that permits municipalities and counties to join in groups, either for self-insurance or through a conventional policy or a combination of both. Later in the month the department published an emergency regulation, liberalizing the funding requirements of the original regulation, so that the first joint municipal insurance pool comprising 16 Bergen County municipalities could begin functioning on January 1, 1985.

In cooperation with the New Jersey State League of Municipalities, the department began a survey of all 567 municipalities in the state to determine the extent of the problem.

Making sure that coverage for asbestos removal and liquor law liability as well as municipal liability remains available is one of the department's top priorities in 1985.

AUTO INSURANCE

The most challenging assignment facing the department in 1984 was to oversee the implementation of new laws that brought substantial changes in the auto insurance market.

On January 1, new concepts of insuring the residual market (those drivers unable to obtain insurance in the voluntary market from a company of their choice) were introduced and New Jersey motorists, for the first time since the introduction of No-Fault insurance in 1973, were given many more options in the coverages they can carry.

The new approach to insuring the residual market marked the beginning of the end of the New Jersey Automobile Insurance Plan, which had been the assigned risk mechanism for private passenger auto insurance for about 40 years. During the year as the NJAIP ran off its business, a new mechanism, the New Jersey Automobile Full Insurance Underwriting Association, known as the JUA, became the insurer of the residual market.

Under the association concept, 15 insurers, called servicing carriers, write insurance for the non-voluntary market. These servicing carriers function in the same manner as they do in the voluntary market except that they are not individually responsible for losses.

With the introduction of the JUA also came a capping procedure to eliminate the wide rate disparities between the highest-rated and the lowest-rated drivers, a merit rating system of uniform surcharges for motor vehicle violations, and a five per cent discount for senior citizens.

Of great significance was the mandate of the JUA law that the JUA use the rates approved for the Insurance Services Office so that no driver would be penalized by being in the JUA since most residual market insureds have good driving records. Another significant change was the shift in the assessment of bad driver surcharges, which, under the AIP, were paid to the insurer and varied widely because they were calculated as a percentage of premium. Under the JUA, surcharges are assessed uniformly for violations against drivers in both the voluntary and residual markets and are paid to the Division of Motor Vehicles instead of the companies. Eighty per cent of the surcharge money is paid by the DMV to the JUA, with the remainder retained by the DMV for administrative expenses.

A second layer of surcharges for the state's worst drivers ranging from $300 to $1,000 was also proposed and will be implemented in 1985.

The New Jersey Automobile Insurance Freedom of Choice and Cost Containment Act, which became fully effective July 1, gives motorists the opportunity to choose a $1,500* No-Fault threshold instead of the $200 that was originally mandated in 1973, an option to

*Increased to $1,600 on January 1, 1985 to reflect a 6.7 per cent increase in the medical component of the Cost of Living Index in 1984.

exclude the non-medical coverages in PIP (wage continuation, essential services, funeral expenses and death benefits) and the option to reimburse the PIP company for medical expenses (if a pain-and-suffering award is received) up to a limit of 20 per cent of the award, all at premium discounts.

These options were in addition to the optional deductibles of $500, $1,000 and $2,500 on the medical expense portion of PIP, which were authorized by the Freedom of Choice and Cost Containment Act but which became effective December 3, 1983. Other choices made available to New Jersey motorists were co-insurance and deductibles of up to $2,000 on collision and comprehensive coverages and higher limits of uninsured and underinsured motorists coverage.

The department estimated that a motorist could save an average of $169 per car by taking the options if insured by a company belonging to the Insurance Services Office.

ISO's discounted rates were given only tentative approval, pending further study to determine if the options justified even greater premium reductions.

The department did approve an ISO filing changing the way rates for collision and comprehensive coverages are calculated. One change links rates to the "damageability" of cars and the costs of repairing them, which is known as Vehicle Series Rating. Another change, called Model Year Rating, provides a level premium for collision and comprehensive insurance, in contrast to the previous method under which the premium decreased over a period of six years as the value of an auto depreciated.

In an effort to promote price competition among auto insurers, the department proposed a regulation to reduce the number of companies that may authorize the Insurance Services Office to file rates on their behalf. The regulation would deny ISO membership to the larger companies.

INSOLVENCIES

Insolvencies, or the threat of insolvencies, occupied much of the department's time, particularly that of the financial examination staff.

Fortunately, no New Jersey domestic companies had to be declared insolvent but the department did engage in several "rescue" operations of domestic companies.

The first involved the Foundation Life Insurance Company of Chatham, which had been placed in rehabilitation on October 9, 1981 because of its financial difficulties. In the succeeding months, the department sought to sell the company and received almost two dozen offers, all of which had to be closely examined. Ultimately, the department concluded that an offer by the Inter-American Capital Company of Chicago was acceptable. The life company was given a cash infusion of $2.5 million, its name was changed to Inter-American Life Insurance Company, and the payment of claims, held up for more than two years by the rehabilitation effort, was resumed.

Another New Jersey company needing special attention because of its financial difficulties was the Universal Reinsurance Corp.

The department approved a plan to enhance the capital and surplus of the company and avoid a potential financial impairment while it runs off its existing business.

As a reinsurer, Universal does not deal with the general public. It provides insurance for other insurance companies that want to spread their risks over a broader base.

Universal, which has its home office in Milford, New Jersey, but maintains its principal office in Blue Ash, Ohio reported a capital and surplus of $39.9 million at the end of 1983. However, an independent actuarial review commissioned by the company determined that the company's reserves for payment of losses and loss adjustment expenses were

understated and that corrective action was needed to offset a $77 million deficit created by the restatement of the reserves.

The rehabilitation plan approved by the department included:

Payment by Armco, Inc. of Middletown, Ohio, the ultimate corporate parent of Universal, of up to $15 million to Universal as a surplus aid note, backed by a letter of credit from a major American bank, to assure that Universal's surplus meets minimum capital and surplus requirements of $3 million;

Restructuring of Universal's investment portfolio to produce a return of approximately 12.5 percent instead of the current yield of 6.7 percent;

Adjustment of the restated reserves to reflect the current value of claims payments to be made in the future with the resultant discount of reserves not to exceed 9 percent.

The Charter Security Life Insurance Company of Chatham, which specialized in the sale of Single Premium Deferred Annuities (SPDAs), required considerable attention from the department, although its problems arose primarily from external sources rather than financial impairment.

Two recent events served to direct public attention to Charter Security Life and heighten public concern as to its financial soundness. The first was the financial difficulty of the Baldwin-United conglomerate, one of whose insurance companies, University Life Insurance Company of Indiana, is admitted to do business in New Jersey. Attention was directed to Charter Security Life because both it and University Life concentrated on marketing SPDAs.

The second troublesome event was the Chapter XI filing by The Charter Company, the ultimate parent of Charter Security Life, for protection from creditors, which created apprehension that there would be a detrimental effect on the insurance company.

The department carefully monitored the activities of Charter Life, which was subjected to demands for withdrawal of SPDAs every time adverse publicity appeared, and urged that the company be sold to remove it from the shadow cast by its ailing parent. Late in the year, Charter and the Metropolitan Life Insurance Company reached agreement on the sale of the New Jersey company (and two other non-New Jersey life companies) and the department, after a public hearing determined that the proposed acquisition met New Jersey's statutory standards for the change of control of a New Jersey insurance company.

More troublesome were the insolvencies of two out-of-state companies, the Ambassador Insurance Company of Vermont and the Ideal Mutual Insurance Company of New York.

Although a Vermont company, Ambassador maintained its administrative office in North Bergen, N.J. and was a major surplus lines writer in New Jersey with about 25 percent of its business covering New Jersey risks.

In 1982, its last full year of business, Ambassador wrote $48.6 million in premium, $11.8 million on New Jersey risks. For the nine-month period ending September 30, 1983, the company wrote about $48 million in premium, including $8.3 million in New Jersey.

Because the company's records were found to be in a state of disarray, it was difficult to determine how many New Jerseyans were insured by the company and how many claims involve New Jerseyans. However, as of December 31, 1982, the company insured 9,950 risks in New Jersey and as of March 31, 1983, there were 2,331 unpaid claims involving New Jerseyans, which totaled $12,093,682. The actual number of claims and their dollar value are expected to be substantially higher.

In New Jersey Ambassador wrote such lines

of insurance as liquor law liability and coverage for long-haul trucking companies and also insured a number of municipalities, school boards and other public entities for liability and property damage.

Because of evidence indicating financial impairment, Ambassador was taken over by the Vermont insurance commissioner on November 10, 1983 for the purpose of determining whether the company could be rehabilitated or whether it should be declared insolvent and be liquidated.

On March 10, 1984, Vermont filed in the Washington County (Vermont) Superior Court an application for the liquidation of the company, alleging that the company was beyond rehabilitation, and on September 4 it was declared insolvent.

In its report to the court, Vermont noted that Ambassador in a quarterly financial statement as of September 30, 1983 claimed a $6.5 million surplus. The state charged, however, that its own investigation revealed that Ambassador had overstated its assets and understated its liabilities by almost $44.7 million and that its liabilities exceeded its assets by $43 million, which was described as a conservative estimate that could conceivably increase by another $20 million.

The causes of the financial deterioration of the company uncovered to date were alleged to include "pervasive underpricing of insurance, establishment and maintenance of grossly inadequate reserves for losses and expenses, and overall mismanagement of the insurer."

The Ambassador insolvency, because of its widespread effect in New Jersey, was a matter of considerable concern to the Governor and the Legislature and led to the creation of the first guaranty fund for surplus lines companies in the nation. The law creating the fund weathered two legal attacks by the insurance industry, one in Federal Court and the other in State Superior Court.

The law provides for the payment of claims against an insolvent surplus lines company up to a limit of $300,000 per claim. The fund is financed by an initial payment of $25,000 by each surplus lines company on the eligible list in New Jersey and a surcharge of no more than four percent levied on each policy written in the state. The fund is being administered by the existing guaranty fund for admitted carriers, the New Jersey Property/Liability Insurance Guaranty Fund.

The impact of the insolvency of Ideal Mutual on New Jersey will be minimal because the company wrote a relatively small amount of business in the state—about $6.2 million in premiums in the first six months of 1984. Because Ideal was an admitted company, covered claims are being paid by the New Jersey Property/Liability Insurance Guaranty Association and, in the case of workers compensation insurance, by the Workers Compensation Mutual Security Fund.

The insolvency of Ideal Mutual, following on the heels of that of Ambassador, led the commissioner to make a public statement attacking the "hazardous business practices that are all too common in the insurance industry today."

He singled out cash flow underwriting as an especially troublesome practice. He described cash flow underwriting as the phenomenon that developed when interest rates soared sky-high and seduced insurance companies into an unhealthy pattern of cut-throat competition. Many companies pursued the single-minded goal of getting as much cash as possible without regard for proper pricing of their insurance products.

"We've heard of instances where companies are selling insurance at prices that are only 20 or 25 percent of what they should charge if they are going to establish proper reserves for the payment of claims," he said.

"We've discovered this kind of underpricing

on municipal liability insurance, and municipalities are now being subjected to horrendous premium increases as the companies attempt to bring their prices back up to a point where they reflect the actual risk."

All companies must be compelled, he said, to provide statements annually from actuaries that the rates charged for deregulated business (such as commercial lines in New Jersey) are adequate.

CASHIER

The work of the Department of Insurance is carried out in great part through operating divisions. Although each division has distinct statutory duties, it should be noted that there is considerable interaction among them in the regulation of insurance. For instance, the Life/Health Actuarial Division is regularly involved in the financial examinations of the life/health companies, complementing the work done by the Examination Division. The Property/Liability Actuarial Division contributes its expertise in the resolution of consumer complaints and assists the Communications Unit of the Public Affairs Division in responding to consumer correspondence. The License Division works closely with Investigations and Complaints in processing complaints against agents and brokers. And all the Divisions are directly involved with Public Affairs in the development of projects that inform and educate the consumer and with the Division of Regulatory and Legislative Affairs in promulgating regulations and evaluating proposed legislation.

The result is a fully integrated and flexible approach to the complex business of insurance regulation.

ACTUARIAL SERVICES

The actuarial responsibilities of the Department of Insurance traditionally have been divided between two divisions: one exclusively for life and health insurance and the other for property-liability insurance.

In 1984, a reorganization of actuarial services was implemented. Although the divisions retained their separate identities, the position of chief actuary was created with responsibility over both divisions.

LIFE-HEALTH DIVISION

This division regulates the $6 billion-a-year life and health insurance industry in New Jersey.

Valuation and Statement Section

This unit makes an annual evaluation of the legal reserves of the domestic life insurance companies, participates in the field examinations of domestic life companies, conducts the examinations of the five state-administered pension systems, makes a financial review of the annual statements, quarterly reports and related data of all life/health companies doing business in the state, and makes analyses of companies seeking admission to the state.

In 1984, the section issued certificates of evaluation of $62.5 billion in reserves of the 15 domestic life companies, analyzed 375 annual statements, processed the applications of 20 companies admitted to do business in New Jersey and had 20 other applications under study at year's end, and conducted examinations of three pension systems and five domestic companies.

Policy Review Section

The primary responsibility of the Life Health Policy Section is the review and approval of forms and benefits. The types of insurance involved are individual life, group life, individual health, group health, blanket accident, fraternal benefit societies, credit life and credit health, variable contracts, hospital service, medical service, dental service and legal expense. The section also maintains files for mortgage guaranty insurance and HMOs, although the forms, rates, and benefits for these areas are not reviewed. About 55 percent of the forms reviewed in 1984 were filed and 45 percent were disapproved.

One of the reasons for the large number of forms received and reviewed was the final implementation date for the Life & Health Policy Language Simplification Act. After November 6, 1984 all forms issued in New Jersey must be "readable" according to standards stated in the Act. The final operative date for the new annuity nonforfeiture law, the new Deposit Term nonforfeiture law requirements, new federal laws, and the 1980 amendments to the nonforfeiture law account for the large number of individual life forms. Also rate factor changes started to appear for Universal/Flexible Factor Life forms.

During 1984 approvals were granted for 249 individual health rate filings, for 27 credit life and health rate deviations, 7 separate account operation changes or establishments, and 11 discretionary groups for group life or group health policies.

The section drafted two regulations: Medicare Supplement Policies and Contracts and Gender-Blended Mortality Tables, and prepared a circular letter on the effective date for the Life & Health Policy Language Simplification Act.

The Life/Health Complaint Unit received 3,610 complaints and inquiries and closed 3,518 during the year. The most frequent complaint involved settlement of claims and the department was successful in recovering $300,095 for complainants.

PROPERTY/LIABILITY DIVISION

This division regulates rates, rules and forms for personal and commercial lines of property and casualty insurance filed by authorized companies and rating organizations. It is the division's responsibility to

determine whether rates filed by insurance companies are reasonable, adequate, and not unfairly discriminatory, in accordance with statutes, regulations and circular letters.

During calendar year 1984, 2,595 rules, rates, and form filings were received and 1,816 filings were processed for approval.

The division disapproved 18 filings. In addition, 782 filings were closed without approval or disapproval because of the lack of a response from the companies or because the companies withdrew the filing or the filing was incomplete.

The division also processed 106 special filings, mainly of individual risk submissions under the New Jersey Automobile Full Insurance Underwriting Association.

In addition, 417 written complaints and inquiries were processed. These complaints and inquiries normally involve consumer-oriented programs such as automobile or homeowner insurance. Although several thousand complaints or inquiries are resolved over the phone, the 417 cases required extensive review and research with insurance companies.

The division contributed to a clearance of the backlog of consumer correspondence, writing more than 300 responses and providing the research in support of the letter-writing function of the Communications Unit of the Public Affairs Division. It also provided the technical data for the department's booklet on the auto insurance options, including the text of the question and answer section. It also provided training sessions for the department investigators and the Public Affairs Division staff.

Review and writing of regulations and legislation also were carried out by the division including two particularly complex regulations on data filing specifications and excess profits.

Considerable staff time was devoted to the development of a computer system for the division's historical records dating back to the early 1900s for more than 800 insurance companies, in research for the medical malpractice study by Public Affairs, in the development of the proposed bad driver surcharge plan and in the development and evaluation of the JUA funding system embodied in legislation pending at year's end.

DIVISION OF EXAMINATIONS

The financial condition of insurance companies being of utmost public concern, the Division of Examinations plays an indispensable role in trying to avert financial impairments or insolvencies and in recommending remedial action when problems arise.

Field Examinations Unit

This unit is responsible for the official on-site examinations (regular or special) of the books, records and accounts of all insurance companies, hospital-medical-dental corporations, fraternal benefit societies, reciprocal-inter-insurance exchanges and underwriting associations either incorporated or formed under the laws of the State of New Jersey in order to determine their financial condition and their adherence to statutory requirements. Regular examinations of life insurance companies are scheduled every five years, property and casualty insurers every four years, and fraternals and title insurers every three years. Examinations of hospital-medical-dental corporations and all special examinations or investigations are held at the discretion of the commissioner.

A comprehensive examination report of each company is prepared and submitted to the commissioner of insurance stating the findings, recommendations and any other information pertinent to their operations. During 1984 the examination staff completed regular examinations of 17 insurance companies, performed examinations of the organization of five new insurers and made reviews of the increase in capital of five insurers. Four special investigations were performed at the request of the commissioner.

Financial Unit

This unit maintains a surveillance over the financial condition of all insurance companies licensed to do business in the State of New Jersey and also determines the financial capabilities of all corporations seeking exemptions from insuring their Workers Compensation and Employer's Liability exposure in New Jersey. In addition, the unit is required to investigate and analyze all applications by foreign and alien property-liability insurance companies seeking authority to transact business in New Jersey. In 1984, five new domestic insurance companies and 15 foreign companies were licensed. In addition, 16 corporations were approved as self-insurers. The unit is also responsible for the safeguarding of securities deposited with the commissioner of insurance for the protection of policyholders.

As a result of new legislation, the commissioner of insurance was authorized to approve and regulate group self-insurance programs for municipalities, school boards and hospitals. The Financial Unit was given responsibility for processing the applications and for monitoring these programs.

Tax Section

This section is responsible for the certification and audits of a variety of insurance company taxes, assessments and surcharges. It also oversees proposed company mergers and acquisitions and participates in public hearings relating thereto, chief among them in 1984 being the acquisition of the Charter Security Life Insurance Company by the Metropolitan Life Insurance Company.

In 1984 the section researched an apparent weakness in the retaliatory tax laws and the resultant remedial legislation, when finally adopted, will yield an additional $2.5 million a year in tax revenue to the state. The section also produced an additional $45,000 in tax revenue through its certification audits of more than 900 insurance companies.

Among the section's major special projects was to research the state's premium tax law, which resulted in a public announcement by the commissioner and the Division of Taxation that New Jersey could lose as much as $85 million a year in premium taxes under an existing law that gives a favored status to companies if they write at least 12.5 percent of their total worldwide business in New Jersey.

Surplus Lines Examining Office

Surplus lines carriers are unauthorized insurers that are permitted, if they are on the state's eligible list, to write coverages that are not available in the market served by the licensed companies. The Surplus Lines Examining Office monitors the financial condition of eligible unauthorized insurers by performing financial reviews of their annual statements. The office is also responsible for insuring that premium taxes are collected. In 1984, approximately $3.1 million was collected on a surplus lines premium of $103 million. The collection included $209,000 plus $25,451 in late filing penalities and interest that were uncovered through investigations by the office.

The office participated in developing recommendations that led to legislation creating the nation's first Surplus Lines Guaranty Association, which provides protection for policyholders and claimants in the event of insolvencies. It also helped to develop other legislation increasing the financial requirements for surplus lines carriers and creating a surplus lines stamping office to be administered by the Surplus Lines Agents Association, which will relieve the office of the burden of processing documents routinely required in surplus lines transactions.

INSURANCE FRAUD DIVISION

This new division, created under a 1983 law, investigates suspected fraudulent claims submitted to insurance carriers and undertakes investigations in other matters when a fraud is suspected.

Operational since March, 1984, the division received for review and investigation 1,500 suspected claims. Of these, approximately 700 were assigned for further investigation and 70 were referred to the attorney general or county prosecutors for action.

Investigations by the division resulted in the arrest or indictments of six persons and in the thwarting of an attempted $1.5 million surety bond fraud. Among those indicted was a licensee of the department who was charged with defrauding his clients of more than $500,000 in annuity monies.

A different and more typical case involved a man who was arrested and charged with obtaining an auto theft policy an hour after he reported the car stolen and then attempted to collect $3,800 from the insurance company.

Other activities of the division included joint investigations with other law enforcement agencies and organizations, including one with the United States Customs, the New York Police Department, and the National Automobile Theft Bureau which resulted in the recovery of 12 stolen vehicles that were in the process of being shipped from Port Newark to overseas points. This investigation resulted in a $150,000 saving to the insurance industry and led to arrests in other jurisdictions.

DIVISION OF INVESTIGATIONS AND COMPLAINTS

The division investigates complaints against property/casualty and life/health companies, agents and brokers. It recovers substantial sums for policyholders and claimants and recommends disciplinary action against errant licensees for violations of the insurance laws and regulations.

In 1984, the licenses of 42 agents and brokers were revoked and 46 fines were imposed, totaling $68,050 and ranging from $100 to $14,800.

The Property and Casualty Complaint Unit received 7,551 complaints, including 1,294 cancellation and non-renewal complaints, 566 complaints against agents and brokers and 5,691 complaints concerning claims, rates, return premium and policyholder services. During the year, 8,001 complaint files were completed and closed.

In 1984, the Property and Casualty Complaint Unit

accomplished a major objective in reducing the number of pending complaint files. This effort resulted in a pending balance of 1,487 as of December 31, 1984—the lowest in more than 10 years.

The unit also recovered $1,026,970 for the benefit of policyholders and claimants, thereby exceeding the $1 million mark for the second time in the last three years, although 356 fewer complaints were received in 1984 than in 1983.

While the number of written complaints declined slightly, telephone activity increased greatly. The telephone count exceeded 20,000 calls, the majority of which concerned new problems or requests for information and guidance.

LICENSE DIVISION

The License Division is responsible for issuing licenses to agents, brokers, and solicitors who have demonstrated their knowledge of the business by passing an appropriate examination. The division establishes the educational requirements for each category of license, approves schools offering insurance education courses, and oversees the examinations given to prospective licensees.

In 1984, examinations were taken by 11,533 applicants. At year's end, there were 63,834 licensed agents, 19,145 brokers, and 5,707 solicitors. Total earned revenue for the year, principally license fees, was $5.4 million.

Computerization of the initial licensing function, renewal function, and records-keeping was advanced during the year toward the goal of 100 percent computerization.

DIVISION OF AUTO BODY SHOP LICENSURE

Created under a 1983 law, the division held a public hearing on a proposed regulation to obtain the views of auto body shop owners, insurance representatives and other groups and then published a revised regulation, which mandated the licensing of auto body shops as of October 1.

Licenses are issued biennially at a fee of $400 for Type 17 shops (more than $75,000 in business annually) and $200 for Type 18 (less than $75,000).

The regulation requires licensees to post an outdoor sign at their shops in a conspicuous location, subject to local zoning regulations, indicating that the facilities are licensed by the state and giving the license numbers. A "Notice to Consumers," provided by the Department of Insurance, must be posted in a conspicuous place. The notice advises consumers of their right to file a complaint with the Department of Insurance if they have reason to believe there has been a violation of the law.

The regulation establishes standards for repair estimates and requires licensees to give customers a written estimate and maintain copies of estimates, as well as work orders, invoices and the like, for two years.

The estimate includes the following information:

The customer's name; the date of the estimate; a list of parts necessary for each specific repair together with the approximate cost of each part, indicating any parts which are not new parts of at least original equipment quality; the labor charge for each repair together with the costs of each labor charge; a description of the vehicle; a promised date of delivery if such is given, and the terms and limit of any guarantee for the repair work performed.

The penalties for violations include suspension, revocation or refusal to renew a license or a maximum fine of $2,000 for a first offense and $5,000 for a second offense.

Late in the year, the Legislature received a bill that would transfer the licensing of auto body shops to the Division of Motor Vehicles.

COMPENSATION RATING AND INSPECTION BUREAU

The bureau, which was created under a 1917 law, is responsible under the commissioner of insurance for the regulation of workers' compensation and employers' liability insurance. It performs the rate-making function, classifies risks, and promulgates rules. All companies writing workers' compensation and employers' liability insurance are required to be members of the bureau.

The bureau holds an annual meeting in May each year, at which time it publishes its own voluminous annual report. It should be briefly noted here that a significant accomplishment in 1984 was the publication of the manual of rates for 1985, which resulted in an average 13.1 percent decrease in premium rates despite the fact that benefits will increase in 1985. The decrease was the third straight accomplished by the bureau.

In addition, the bureau reviewed 340,429 individual risk policies, endorsements, cancellations and reinstatements, of which 61,658 required corrections, and carried out 1,549 field examinations to establish proper rating classifications.

DIVISION OF ADMINISTRATION

The division provides general support services, including personnel, payroll, budgeting, accounting, purchasing, data processing, printing, records retention, training, and word processing.

The administrative function was totally reorganized under a newly created position of chief of staff, responsible for all internal administrative matters. For the year 1984, efforts were concentrated in improving and updating four major areas: facility management, human resource management, information management, and financial management.

Facility Management

The department's headquarters at 201 East State Street, Trenton, was totally refurbished. New offices were constructed for supervisory personnel, and the entire building was repainted. Leaks in the building's roof were repaired, and ceiling tiles replaced.

Thousands of inactive records were reviewed in compliance with the departmental Records Management and Retention Schedule. Based on that review, more than 1,000 cubic feet of outdated records were destroyed, 2,000 cubic feet were forwarded to the State Records Retention Center, and 2,100 cubic feet were processed to the department's Record Center.

The file reduction program provided the opportunity to discard antiquated storage and file cabinets, freeing up substantial floor space and allowing construction of individual offices. In general, this has relieved the cramped quarters and better utilized the limited area provided. The department continues to review and revise its records management and retention schedules, particularly in recognition of the emphasis on office automation, through the expanded use of both word and data processing technology. It is estimated that an additional several hundred cubic feet of records will be disposed of in early 1985.

The department's telephone system was reviewed, resulting in the addition of 38 new telephone instruments and 42 new telephone lines and improving communication within the department as well as on the State Centrex network.

The department's storeroom was organized, and an inventory control system put in place.

A security plan was developed, which included the issuance of photo ID badges to all Department of Insurance employees, with sign-in and badge procedures for all visitors. Security gates were repaired on the underground garage, and contracts were let for replacement doors on the State Street entrance, which will allow control of ingress and egress through the rear doors of the building.

Human Resource Management

A complete review of the department's organizational structure was undertaken with the assistance of the Office of Management and Budget. Salaries were studied in conjunction with the Department of Civil Service, resulting in 13 salary range changes; 10 salary adjustment requests; 37 promotions; creation of 20 new positions, and 18 reclassifications. These actions were necessary to bring the Department of Insurance titles more in line with those of the insurance industry it regulates and with other state agencies.

In addition, the department conducted a thorough performance review of each employee. Plans are underway to institute the new Performance Assessment Review (PAR) system.

Information Processing

The first of many steps was taken to bring the Department of Insurance into the 20th century and the Information Age. This approach was long overdue in the department and will enable it to keep pace with its statutory responsibilities of regulating the $11 billion industry in New Jersey.

A word processing system, consisting of 10 work stations, was installed. A task force was established to review the long-term word processing and data processing needs of the department. The only currently automated function of the department—licensing—was revised, and procedures and program changes were put into place to streamline and update all licensing activities. Legislative changes to take this process even further were under review.

Two new systems were under design. A Property/Casualty Rate Management System was defined and was being installed. This system will expedite the flow of rate filings through a local area network of personal computers.

A Financial Examinations Management System was developed to handle all aspects of the insurance company examination function and will be implemented in 1985.

Financial Management

The department's budget for FY 1985 and its appropriation request for FY 1986 have been adjusted to allow excess receipts above anticipated revenues to be appropriated to the department to fund improvement activities. The fee increases recently legislated have provided the department with the funding necessary to embark on its program to bring state of the art technology to the regulation of the real estate and insurance industries. Most of the expenditures and many of the improvements will be realized in calendar year 1985. The past year was a period of analysis and planning and, therefore, expenditures remained basically constant. It is anticipated that expenditures will increase by 20 to 30

percent in 1985 and 1986, and as capital needs are satisfied, the department's expenditure level will retreat to a continuation budget level of approximately $7 million in 1987.

DIVISION OF LEGISLATIVE AND REGULATORY AFFAIRS

To improve the department's liaison with the Legislature and to centralize its rule-making function, this division was created in May, 1984. The division is also responsible for initiating legal proceedings where appropriate and it also maintains liaison with federal and state agencies, trade associations and the governor's office.

Prior to the division's creation, the department had proposed only four regulations in 1984. Subsequently, the division proposed 35 regulations, 18 of which had been adopted by year's end. The regulations addressed many of the department's diverse areas of authority, including licensing, life-health matters, marketplace regulation and consumer assistance, property/liability matters, fraud, hospital/medical/dental services, and real estate matters.

The division also began planning the recodification of the insurance section of the New Jersey Administrative Code.

Another important function of the division is the preparation of comments on bills pending in the Legislature. Last year, the division prepared comments on 63 bills involving many aspects of insurance. In addition, the division, with the aid of other in-house technical staff either provided substantial input or drafted twelve bills that were introduced in the Legislature.

The division also serves as the department's liaison with all residual market mechanisms (e.g., New Jersey Automobile Full Insurance Underwriting Association and FAIR Plan) and prepares research and policy papers for the commissioner.

DIVISION OF PUBLIC AFFAIRS

Public Affairs serves as the communications arm of the department in conjunction with the public information office. The division responds to consumer inquiries, provides outreach educational programs, makes public appearances and publishes consumer-oriented booklets and newsletters. It also investigates special public policy problems related to the department's mission as a protector of consumers and prepares reports and recommendations as requested. It serves generally as a consumer watchdog, advising the commissioner of the impact of policy decisions on the public and participates in the issuance of press releases and the maintenance of press relations.

The three-member Communications Office, which was established June 1, handles mail referred to the department. It also answers all questions the department receives concerning auto insurance reform, rate increases and other topical issues of a controversial nature. Based on six months of operation in 1984, the office answers approximately 1,500 letters annually. In 1984, at least 75 percent of the correspondence concerned auto insurance reform. Complaints about companies' performance in handling claims brought in the next largest number of letters followed by questions about rate increases.

The Public Affairs staff delivers speeches on the recent auto insurance reform measures, Medicare supplements and any other topics requested by groups contacting the department. So far, it has concentrated on educating the public on auto insurance, speaking to groups located anywhere from Mahwah to Cherry Hill.

The division's first publication was a booklet designed to explain auto insurance reforms in an easy-to-read format. Research of various insurance related issues was begun for the publication of other booklets.

Foremost among these is a Medicare supplement guide which should be ready for publication by the summer of 1985.

In its role as consumer advocate, the division began coordinating the Task Force on Medical Malpractice Insurance, assessed the potential insurance savings from a seat belt law or passive restraint law, made a study comparing the state's drunk driving laws to those of other states, and took preliminary steps toward creating a Market Conduct Examination team.

DIVISION OF THE NEW JERSEY REAL ESTATE COMMISSION

The Real Estate Commission administers and enforces the Real Estate License Act to maintain professional standards in the real estate brokerage business. The commission supervises the education of prospective applicants, establishes standards of competence, tests and licenses individuals and firms. It also promulgates regulations to protect the public, investigates complaints against licensed and unlicensed firms, and prosecutes disciplinary actions. The commission is also responsible, through the Bureau of Subdivided Land Sales, for the administration and enforcement of the Land Sales Full Disclosure Act under which purchases of property located in other states by New Jersey residents are supervised by registration and public disclosure requirements.

In 1984 commission activities generated revenues in excess of $3 million. These consist primarily of license fees, but include Land Sales Full Disclosure Act registration fees and fines collected. Revenues included

a one-time retroactive fee increase that yielded approximately $1 million.

The commission is functionally divided into seven sections. Operations and accomplishments of each section are discussed below.

Real Estate Commissioners

During 1984 the eight real estate commissioners held 33 formal disciplinary hearings, decided appeals on licensing questions and resolved issues of regulatory policy. One issue that received national attention was their advisory decision to permit real estate brokers to assist buyers in obtaining mortgage financing under carefully controlled circumstances. This decision should serve to increase competition, and thereby improve service in the residential mortgage market.

Director's Office/Administration

As the result of management initiatives, 1984 was a year of great progress in the overall operating efficiency of the division. An integrated testing/initial licensing system reduced from six weeks to 10 days the time lag between qualification and licensing. Continuing improvements are expected in 1985, as a new data processing system for licensing is to be implemented as the result of studies undertaken in 1984.

A case-screening process was introduced in the investigation section so that its resources could be concentrated on the most serious problems. Despite a 35 percent increase in new complaints, by year's end the investigation section backlog was reduced from more than 500 cases to fewer than 400, with additional progress being made monthly.

Several physical improvements were made to the division offices that greatly improved the work environment, including the construction of four new offices and a conference room and the removal to storage of 85 file cabinets of paper records.

Licensing Section

The commission licensed 14,888 brokers and 49,643 salespersons, an increase of almost 5,000 over 1983. Of these, 12,394 were new licensees, reflecting rapid growth in the brokerage business as the economy recovered. The section handled an increase in transactions of more than 30 percent with no additional employees.

Education and Testing Section

This section monitored real estate education by the 72 approved schools at 263 locations throughout the state. More than 15,000 applicants were tested for competence by the commission's contract testing service. Four quarterly issues of the "Advisor", the official commission publication, were distributed to more than 6,300 licensed offices.

In January the Legislature amended the License Act's provisions on qualification to upgrade professional standards. This change required a major revision in the commission's licensing rules, which was completed and publicized after a public hearing for the information of licensees, real estate educators and other interested citizens.

Investigations Section

The commission received more than 1,400 written consumer complaints, its highest annual total. Two additional investigators were added, and individual caseloads fell to manageable levels. Additional vehicles were purchased so that investigators could resume inspections of brokers' offices. These improvements enhanced the commission's regulatory presence.

Bureau of Subdivided Land Sales

The bureau's workload increased substantially with 262 out-of-state projects registered at year's end, up from 165 the year before. Regulatory activities increased proportionately and an additional part-time investigator was assigned to the bureau.

The commission's rules regulating interstate sales were thoroughly reviewed and a complete revision drafted. This revision will be formally promulgated in early 1985.

Hearings Section

The Hearing Section initiated formal disciplinary proceedings against 67 licensees resulting in 43 license suspensions or revocations. An additional 60 cases were resolved informally by consent fines. This section also processed 195 appeals to the commissioners for final decision. Formal disciplinary cases increased more than 250 percent in the last two years.

In the Fall of 1984 a deputy attorney general was assigned full-time to the commission to prosecute this increased workload.